

EXHIBIT L

STATE OF NEW YORK
SUPREME COURT ALBANY COUNTY

In the Matter of the
Special Proceeding Application of

Index No.: 900899-22

VW CREDIT INC.,

Petitioner(s)/Plaintiff(s),

AFFIDAVIT

-against-

BOSCAINO COLLISION & TOWING CORP.,
and THE NEW YORK STATE DEPARTMENT
OF MOTOR VEHICLES,

Respondent(s)/Defendant(s).

Judge Assigned:
Hon. Richard M. Platkin

JOHN M. DUBUC, being duly sworn, deposes and says:

1. I am the attorney for the Petitioner/Plaintiff ("VW"). I am familiar with the facts set forth in this affidavit from my own knowledge or from the information contained in our file. This affidavit is submitted in further support of the present motion for sanctions against Rosen Law LLC, Gary Rosen, Esq. and Boscaino Collision & Towing Corp. ("the garage").
2. On July 7, 2023, this Court issued a Decision & Order holding that the garage had unlawfully converted the 2019 Audi ("the subject vehicle") and setting the matter down for an inquest to determine the value of the subject vehicle. (NYSCEF Doc. No. 49)
3. Following the service of the Decision & Order with notice of entry, I engaged in several telephone conversations with Joseph Noonan, Esq. from Rosen Law LLC. In the course of those conversations, I disclosed to Mr. Noonan that we had hired an expert witness to evaluate the value of the subject vehicle and Mr. Noonan was particularly concerned that the value could exceed \$8,000.00.
4. Thereafter, on September 6, 2023 we obtained a copy of VW's expert's valuation report and I emailed a copy to Mr. Noonan and requested an adjournment of the inquest hearing as the garage had appealed the Court's Decision & Order and the matter was set for a CASP conference on September 26, 2023. (See: Exhibit 1)
5. Thereafter, on September 22, 2023 at approximately 4:35pm, Gary Rosen, Esq. published a litigation hold letter to me threatening to bring frivolous claims against Rudolph J. Mcola in the

nature of a federal class-action lawsuit concerning numerous matters that were already being litigated in state court actions. (NYSCEF Doc. No. 58) I perceived the letter as a strong-arm tactic by Mr. Rosen to gain an advantage in negotiations for the pending CASP conference. It was this letter that prompted the instant sanctions motion.

6. On September 26, 2023, I personally appeared at the CASP conference. Mr. Rosen did not personally appear, but rather hired local counsel to cover the appearance.
7. The CASP conference was a good faith negotiation which lasted approximately two hours, however the parties were ultimately unable to agree to a value for vehicle. Mr. Rosen's appearance counsel stated that if we agreed to their value, Rosen Law Firm LLC would agree to not pursue any federal lawsuit, would withdraw the litigation hold letter and treat it like it never happened.
8. At the conclusion of the CASP conference, the CASP administrator Timothy P. O'Keefe specifically thanked both parties for appearing and negotiating in good faith and was apologetic that he was unable to broker a settlement.
9. Following the CASP conference, Mr. Rosen sent another threatening letter accusing me of failing to appear in good faith and demanding attorneys' fees and expenses. As noted, Mr. Rosen failed to appear at the CASP conference and had no first-hand personal knowledge of what transpired at the CASP conference. (See: Exhibit 2)



JOHN M. DUBUC

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

On this 11th day of October in the year 2023 before me, the undersigned, personally appeared **John M. Dubuc**, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she is currently in the City described below; that he/she knows said witness to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said witness execute the same; that said witness at the same time subscribed his/her name as a witness thereto; and that said subscribing witness made such appearance before the undersigned in Albany, NY.

The undersigned does hereby certify that he/she is a person duly authorized to administer an oath [for purposes of acknowledging the signing of a legal affidavit or document] under one or more of the following: a) the Law of The United States, b) the Law of the State of New York, USA. The undersigned does hereby certify that he/she administered to the subscribing witness an oath of a form calculated to awaken the conscience and impress upon the mind of the subscribing witness that the

statements so made by the subscribing witness are the truthful and accurate and the witness confirmed that all statements are truthful and accurate. The undersign certifies that the acknowledgment of the subscribing witness was taken in the manner prescribed by such law hereinabove described; and that it duly conforms with such laws and is in all respects valid and effective in such state.



NOTARY PUBLIC

JOSHUA WITKOP
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01WI6421610
Qualified in Albany County
My Commission Expires September 07, 2025

EXHIBIT 1

John Dubuc

From: John Dubuc
Sent: Wednesday, September 6, 2023 10:24 AM
To: Joseph Noonan
Cc: rudy@eolalaw.com; Gary Rosen
Subject: RE: 900899-22 - WV Credit Inc. v. Boscaino Collision & Towing Corp. et al
Attachments: VW.Boscaino. valuation report.pdf; VW Credit v Boscaino.pdf

Good morning Joseph,

We have attached a copy of our expert's valuation report for the damages hearing scheduled for tomorrow. However, we also just received notice from the Appellate Division that this is scheduled for a CASP settlement conference on September 26, 2023 where we will have to appear in person with the clients. It may make more sense to adjourn the damages hearing out past the settlement conference because it could all be moot. Please advise if you agree to adjourn the hearing out another month.

Thank you.



John Dubuc, Esq.
Meola Law Firm
1822 Western Avenue
Albany, NY 12203
(518) 713-2030
Fax: (518) 713-2032
www.meolalaw.com

From: Joseph Noonan <joseph@rosenlawllc.com>
Sent: Monday, July 31, 2023 4:00 PM
To: John Dubuc <jdubuc@meolalaw.com>
Cc: rudy@eolalaw.com; Gary Rosen <grosen@rosenlawllc.com>
Subject: Re: 900899-22 - WV Credit Inc. v. Boscaino Collision & Towing Corp. et al

Good afternoon,

I wanted to follow up regarding this matter, are you able to agree to those dates?

All the best,
Joseph Noonan

On Mon, Jul 31, 2023 at 11:41 AM Joseph Noonan <joseph@rosenlawllc.com> wrote:

Good afternoon,

After getting a response from the Court, they have stated they aren't opposed to adjourning but we need to inform them how long the adjournment will be.

Can we adjourn this to the 7th or 8th of September?

All the best,
Joseph Noonan

On Mon, Jul 31, 2023 at 10:14 AM John Dubuc <jdubuc@meolalaw.com> wrote:

Good morning,

I got stuck in court Friday and had to appear for several motions this morning so I still haven't been able to confer with our expert witness- I will be back in the office later this afternoon and will call him and let you know. Thank you

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Joseph Noonan <joseph@rosenlawllc.com>
Sent: Monday, July 31, 2023 10:09:56 AM
To: John Dubuc <jdubuc@meolalaw.com>; rudyl@eolalaw.com <rudyl@eolalaw.com>
Cc: Gary Rosen <groser@rosenlawllc.com>
Subject: Re: 900899-22 - WV Credit Inc. v. Boscaino Collision & Towing Corp. et al

Good morning,

I contacted John several times last week and requested an adjournment since we aren't able to appear on August 3, 2023.

I want to prepare a stipulation to adjourn this appearance for 30 days.

Please let me know if you agree so I can prepare the stipulation.

All the best,
Joseph Noonan

On Fri, Jul 28, 2023 at 2:51 PM Joseph Noonan <joseph@rosenlawllc.com> wrote:

Good afternoon,

I just called and wanted to follow up about the request for adjournment on consent.

Please let me know ASAP.

All the best,
Joseph Noonan

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JOSEPH NOONAN, ESQ, EXT#224



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EXHIBIT 2



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Jaime Rosen, Esq. (Admitted NY, FL, NJ, CT)
Michael J. Noonan, Esq. (Admitted NY)
Joseph G. Noonan, Esq. (Admitted NY, IL)

September 26, 2023

VIA EMAIL

Rudolph J. Meola, Esq.
LAW OFFICE OF RUDOLPH J. MEOLA
1822 Western Avenue
Albany, New York 12203

VIA EMAIL

John Dubuc, Esq.
LAW OFFICE OF RUDOLPH J. MEOLA
1822 Western Avenue
Albany, New York 12203

RE: VW Credit, Inc. v. Boscaino Collision & Towing Corp., et.al.
CASP # CV-23-1537
Third Department, Appellate Division

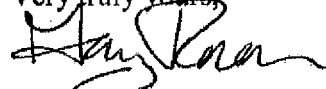
Gentlemen:

This office represents Boscaino Collision & Towing Corp.

Please be advised that this is notice to you that you failed to appear at the conference today, September 26, 2023 in good faith before the Third Department, Appellate Division as required by 22 NYCRR 1250.3(c), and it is deemed that you caused our client, a downstate towing company to incur expenses and costs, including attorneys' fees to appear in the Third Department, Appellate Division when VW Credit, Inc. had no intention of resolving the dispute between VW Credit, Inc. and Boscaino Collision & Towing Corp., when VW Credit, Inc. could have advised this office and the Third Department, Appellate Division that it had no intention of settling the above captioned matter.

Boscaino Collision & Towing Corp. demands reimbursement from VW Credit, Inc. for all of its cost, expenses and attorneys' fees in the amount of \$2,000.00 incurred as a result of the appearance before the Third Department, Appellate Division today.

Very truly yours,



Gary Rosen